

1 **QUINN EMANUEL URQUHART & SULLIVAN, LLP**
2 Stephen A. Swedlow (admitted *pro hac vice*)
3 stephenswedlow@quinnemanuel.com
4 191 N. Wacker Drive, Suite 2700
5 Chicago, IL 60606
6 (312) 705-7400

7 **HAGENS BERMAN SOBOL SHAPIRO LLP**
8 Shana E. Scarlett (Bar No. 217895)
9 shanas@hbsslaw.com
10 715 Hearst Avenue, Suite 202
11 Berkeley, CA 94710
12 (510) 725-3000

13 *Interim Co-Lead Consumer Class Counsel*

14 [Additional counsel listed on signature page]

15 **BATHAEE DUNNE LLP**
16 Yavar Bathaee (Bar No. 282388)
17 yavar@bathaedunne.com
18 445 Park Avenue, 9th Floor
19 New York, NY 10022
20 (332) 322-8835

21 **SCOTT+SCOTT ATTORNEYS AT LAW**
22 **LLP**
23 Amanda F. Lawrence (*pro hac vice*)
24 alawrence@scott-scott.com
25 156 South Main Street, P.O. Box 192
Colchester, CT 06415
(860) 537-5537

26 *Interim Co-Lead Advertiser Class Counsel*

27 **WILMER CUTLER PICKERING**
28 **HALE AND DORR LLP**
29 SONAL N. MEHTA (SBN 222086)
30 Sonal.Mehta@wilmerhale.com
31 2600 El Camino Real, Suite 400
32 Palo Alto, California 94306
33 Telephone: (650) 858-6000
34 Facsimile: (650) 858-6100

35 *Attorneys for Defendant Meta Platforms,*
36 *Inc.*

37 **UNITED STATES DISTRICT COURT**
38
39 **NORTHERN DISTRICT OF CALIFORNIA**
40
41 **SAN FRANCISCO DIVISION**

42 MAXIMILIAN KLEIN, et al.,
43 Plaintiffs,
44 vs.
45 META PLATFORMS, INC.,
46 Defendant.

47 This Document Relates To: All Actions

48 Consolidated Case No. 3:20-cv-08570-JD

49 **AMENDED JOINT STIPULATION**
50 **BETWEEN CONSUMER PLAINTIFFS,**
51 **ADVERTISER PLAINTIFFS, AND**
52 **DEFENDANT META PLATFORMS, INC.**
53 **REGARDING SUBSTANTIAL**
54 **COMPLETION DATE FOR DOCUMENT**
55 **PRODUCTION AND MODIFICATION OF**
56 **CASE SCHEDULE**

57 The Hon. James Donato

1 **JOINT STIPULATION**

2 Consumer Plaintiffs (“Consumers”), Advertiser Plaintiffs (“Advertisers”), and defendant
3 Meta Platforms, Inc. (“Meta”), by and through their undersigned counsel, hereby stipulate and
4 respectfully request as follows:

5 WHEREAS, the Court held a status conference with the parties on August 11, 2022;

6 WHEREAS, the Court thereafter ordered the parties to “meet and confer on a deadline for
7 the substantial completion of document production” (Dkt. 334 at 2);

8 WHEREAS, the parties have—pursuant to the Court’s order—met and conferred regarding
9 a proposed date for substantial completion of document production;

10 WHEREAS, Advertisers and Meta on June 9, 2022, reached agreement on the 40 document
11 custodians from whose files Meta would collect, search, and produce documents responsive to
12 Advertisers’ pending requests for production;

13 WHEREAS, Consumers and Meta on June 16, 2022, reached agreement on the 48 document
14 custodians from whose files Meta would collect, search, and produce documents responsive to
15 Consumers’ pending requests for production;

16 WHEREAS, Consumers and Meta on August 4, 2022, reached substantial agreement on the
17 search strings that Meta would run across the 48 Meta-Consumer custodians’ files to search for
18 responsive documents, and final agreement on the remaining search strings on September 12, 2022;

19 WHEREAS, Advertisers and Meta continue to negotiate and near agreement on the search
20 strings that Meta will run across the 40 Meta-Advertiser custodians’ files to search for responsive
21 documents;

22 WHEREAS, Meta is engaging, or will engage, in human review of at least 1.2 million
23 documents hit upon by Consumers’ search strings that were run across the 48 Meta-Consumer
24 custodians’ files;

25 WHEREAS, Meta is engaging, or will engage, in human review of at least 1.4 million
26 documents hit upon by Advertisers’ search strings that were run across the 40 Meta-Advertiser
27 custodians’ files;

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1 WHEREAS, Consumers have agreed to search for additional documents responsive to
2 Meta's requests for production to Consumers;

3 WHEREAS, Advertisers have agreed to search for additional documents responsive to
4 Meta's requests for production to Advertisers;

5 WHEREAS, Consumers, Advertisers, and Meta have issued document subpoenas to non-
6 parties, respective subpoena negotiations with many non-parties are still underway, many non-
7 parties' investigations into responsive documents are continuing, and, as a result, many of the non-
8 parties' document productions have not yet begun or are ongoing;

9 WHEREAS, Consumers, Advertisers, and Meta believe that—in light of the broad scope
10 and large number of documents being collected, searched, reviewed, and produced—the parties can
11 substantially complete document production in response to already-served document requests by
12 December 19, 2022;

13 WHEREAS, the Court has set a case schedule (Dkt. 289), with fact discovery currently set
14 to close on January 13, 2023;

15 WHEREAS, the parties have sought to meet the Court's existing case schedule but
16 respectfully submit that good cause exists to extend the case schedule given the extensive document
17 discovery that is underway and still ongoing;

18 WHEREAS, the parties respectfully submit that modifying the case schedule will also best
19 allow the parties to effectively coordinate, schedule, and complete depositions given the likely
20 number of witnesses to be deposed, by providing: (a) the Deposing Party sufficient lead time to
21 complete its review of each custodian's documents and determine whether to notice the deposition
22 of that custodian, as and after the responding party substantially completes document production of
23 that custodian's files; (b) the Noticed Party sufficient time to continue to, in parallel, make the
24 document productions of other custodians' files on a rolling basis until substantially completing the
25 document productions for those other custodians as well; (c) the Noticed Party sufficient time to
26 confirm that each witness is available on the date that the Deposing Party seeks to take the witness's
27 deposition, and, if not, to confirm a date on which the witness is available and that is within a
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1 reasonable amount of time of the date that the Deposing Party originally proposed; and (d) the parties
 2 sufficient time to complete depositions of witnesses, including parties and non-parties;

3 WHEREAS, the parties' proposed December 19, 2022 substantial completion date is
 4 approximately one month before the existing fact discovery cut-off of January 13, 2023, such that
 5 the parties—after substantial consideration and discussion—believe an extension of the fact
 6 discovery cut-off by approximately five months is necessary to provide the parties the time between
 7 substantial completion of document production and the fact discovery cut-off that the parties agree
 8 is needed to complete depositions and fact discovery, including to allow the parties to prepare for
 9 depositions based on their respective reviews of the large number of documents yet to be produced,
 10 schedule and complete fact depositions of the large number of witnesses that are likely to be
 11 deposed, and allow the parties' respective experts to prepare and complete their analyses in advance
 12 of class certification expert reports and the Court's class certification process;

13 WHEREAS, the parties respectfully submit that, for the reasons described above, good cause
 14 likewise exists for a similar extension of the other dates set in the Court's scheduling order (Dkt.
 15 289) and that such an extension of these dates would largely preserve the same sequencing of and
 16 spacing between case events currently set in the Court's scheduling order;

17 WHEREAS, the parties met-and-conferred regarding a proposed, revised case schedule and
 18 submitted their proposed schedule to the Court in an October 13, 2022 stipulation (Dkt. 363);

19 WHEREAS, the Court held a status conference with the parties on October 20, 2022, and
 20 ordered that the parties modify their proposed, revised case schedule to include proposed dates for
 21 a market tutorial in the first quarter of 2023, as well as a 2024 trial date (Dkt. 367);

22 WHEREAS, the parties have further conferred and jointly propose and respectfully request
 23 that the Court enter the following modified dates¹:

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 25
 26 ¹ In general, the parties propose a five to six month extension of existing dates. Where appropriate,
 27 the parties have modified particular dates to account for the Court's preference for holding specific
 28 hearings on particular days of the week (e.g., law and motion calendar on Thursdays, expert
 concurrent proceedings on Tuesdays, and trial on Mondays) and for holidays. As a result, some
 dates may reflect proposed modifications that are slightly less or slightly more than five to six
 months from existing dates.

<u>Event</u>	<u>Current Deadline</u>	<u>Proposed Modified Deadline</u>
Substantial Completion of Document Production for Already-Served Document Requests	N/A	December 19, 2022
Relevant Market Tutorial (Separate Sessions for Consumer and Advertiser Cases)	N/A	February 28, 2023 at 11:00 a.m. (Tutorial) ² February 17, 2023 (Joint Submission)
Fact discovery cut-off	January 13, 2023	June 23, 2023
Plaintiffs' class certification expert disclosures	January 27, 2023	July 7, 2023
Defendant's class certification expert disclosures	February 24, 2023	August 4, 2023
Plaintiffs' class certification reply expert disclosures	March 24, 2023	September 1, 2023
Last day to file class certification and class <i>Daubert</i> motions	April 7, 2023	September 15, 2023
Last day to file oppositions to class certification and class <i>Daubert</i> motions	May 12, 2023	October 13, 2023
Last day to file replies to class certification and class <i>Daubert</i> motions	June 9, 2023	November 3, 2023
Last day to file joint submission for class certification concurrent expert proceeding	June 12, 2023	November 10, 2023
Class certification concurrent expert proceeding	June 27, 2023, at 11:00 a.m.	December 5, 2023, at 11:00 a.m.
Class certification hearing	July 13, 2023, at 10:00 a.m.	December 14, 2023, at 10:00 a.m.

² The parties have proposed February 28, 2023 as the relevant market tutorial in light of the availability of anticipated presenters.

<u>Event</u>	<u>Current Deadline</u>	<u>Proposed Modified Deadline</u>
Bilateral merits expert disclosures	August 4, 2023	January 12, 2024
Bilateral merits rebuttal expert disclosures	September 8, 2023	February 9, 2024
Merits expert discovery cut-off	October 20, 2023	March 15, 2024
Last day to file dispositive and merits <i>Daubert</i> motions	November 17, 2023	April 5, 2024
Last day to file oppositions to dispositive and merits <i>Daubert</i> motions	December 15, 2023	May 3, 2024
Last day to file replies to dispositive and merits <i>Daubert</i> motions	January 5, 2024	May 21, 2024
Last day to file joint submission for merits concurrent expert proceeding	January 8, 2024	May 28, 2024
Merits concurrent expert proceeding	January 23, 2024, at 11:00 a.m.	June 11, 2024, at 11:00 a.m.
Dispositive and merits <i>Daubert</i> motions hearing	February 1, 2024, at 10:00 a.m.	June 20, 2024, at 10:00 a.m.
Pretrial conference	June 27, 2024, at 1:30 p.m.	October 17, 2024, at 1:30 p.m. (for November 4 trial) or October 24, 2024, at 1:30 p.m. (for November 11 trial)
Jury Trial	July 15, 2024, at 9:00 a.m.	November 4, 2024, at 9:00 a.m. or November 11, 2024, at 9:00 a.m.

WHEREAS, the parties wish to ensure that they meet their proposed, modified case schedule so that no further extensions should be necessary; and

1 WHEREAS, the parties have therefore discussed and agreed to the following procedures to
 2 best ensure that the parties meet their proposed, modified case schedule:

3 • **Scheduling Deposition Dates:** Subject to subsequent court order, the parties agree as
 4 follows: The parties will make good-faith efforts to consult in advance to schedule
 5 depositions at mutually convenient times and places and provide at least 14 calendar days
 6 between the request and the noticed deposition date. The Noticed Party shall make good-
 7 faith efforts to respond to a request for a deposition date within 10 days of the date that the
 8 deposition request was made. If the Noticed Party cannot accommodate the date that the
 9 Deposing Party proposed, then the Noticed Party will confirm when the witness is available
 10 and make good-faith efforts to propose alternative date ranges that are within 21 days of the
 11 Deposing Party's original proposed deposition date, unless that timing would impose an
 12 unreasonable burden on the deponent or the deponent's counsel, in which case the Noticed
 13 Party shall propose alternative date ranges that are reasonably close in time to the Deposing
 14 Party's original proposed deposition date. When a party offers date(s) for its witness, the
 15 other party will make good-faith efforts to respond to the offered date(s) within 5 days that
 16 the date(s) were offered. The parties also agree to confer regularly on deposition scheduling
 17 and to work collaboratively so that party depositions are not unduly concentrated in the final
 18 weeks of fact discovery.

19 ACCORDINGLY, Consumer Plaintiffs, Advertiser Plaintiffs, and Meta Platforms, Inc., by
 20 and through their respective counsel, hereby stipulate and respectfully request that the Court:

21 1. Find that good cause exists to modify the scheduling order (Dkt. 289) and
 22 accordingly modify the case schedule as requested in the parties' above stipulation.
 23 2. Enter the parties' protocol regarding scheduling dates for depositions, such that,
 24 subject to subsequent court order, the parties agree to provide at least 14 calendar
 25 days between the request and the noticed deposition date; that the Noticed Party shall
 26 make good-faith efforts to respond to a request for a deposition date within 10 days
 27 of the date that the deposition request was made, and if the Noticed Party cannot
 28 accommodate the date that the Deposing Party proposed, then the Noticed Party shall

1 confirm when the witness is available and make good-faith efforts to propose
2 alternative date ranges that are within 21 days of the Deposing Party's original
3 proposed deposition date, unless that timing would impose an unreasonable burden
4 on the deponent or deponent's counsel, in which case the Noticed Party shall propose
5 alternative date ranges that are reasonably close in time to the Deposing Party's
6 original proposed deposition date; and that when a party offers date(s) for its witness,
7 the other party will make good-faith efforts to respond to the offered date(s) within
8 5 days that the date(s) were offered.

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____

By: _____

Hon. James Donato

United States District Judge

1 DATED: November 4, 2022

2 By: /s/ Shana E. Scarlett

3 **HAGENS BERMAN SOBOL SHAPIRO LLP**

4 Shana E. Scarlett (Bar No. 217895)

shanas@hbsslaw.com

5 715 Hearst Avenue, Suite 202

Berkeley, CA 94710

6 Telephone: (510) 725-3000

7 Steve W. Berman (*pro hac vice*)

8 steve@hbsslaw.com

1301 Second Avenue, Suite 2000

Seattle, WA 98101

9 Telephone: (206) 623-7292

10 **LOCKRIDGE GRINDAL NAUEN P.L.L.P.**

11 W. Joseph Bruckner (*pro hac vice*)

wjbruckner@locklaw.com

12 Robert K. Shelquist (*pro hac vice*)

rkshelquist@locklaw.com

13 Brian D. Clark (*pro hac vice*)

bdclark@locklaw.com

14 Rebecca A. Peterson (Bar No. 241858)

rapeterson@locklaw.com

15 Arielle S. Wagner (*pro hac vice*)

aswagner@locklaw.com

16 Kyle J. Pozan (admitted *pro hac vice*)

kjpozan@locklaw.com

17 Laura M. Matson (admitted *pro hac vice*)

lmmatson@locklaw.com

18 100 Washington Avenue South, Suite 2200

Minneapolis, MN 55401

Telephone: (612) 339-6900

Respectfully submitted,

By: /s/ Stephen A. Swedlow

**QUINN EMANUEL URQUHART & SULLIVAN,
LLP**

Stephen A. Swedlow (*pro hac vice*)

stephenswedlow@quinnemanuel.com

Michelle Schmit

michelleschmit@quinnemanuel.com

191 N. Wacker Drive, Suite 2700

Chicago, IL 60606

Telephone: (312) 705-7400

20 Kevin Y. Teruya (Bar No. 235916)

kevinteruya@quinnemanuel.com

21 Adam B. Wolfson (Bar No. 262125)

adamwolfson@quinnemanuel.com

22 Brantley I. Pepperman (Bar No. 322057)

brantleypepperman@quinnemanuel.com

23 865 South Figueroa Street, 10th Floor

Los Angeles, CA 90017

24 Telephone: (213) 443-3000

25 Manisha M. Sheth (*pro hac vice*)

26 manishasheth@quinnemanuel.com

27 51 Madison Avenue, 22nd Floor

28 New York, New York 10010

Telephone: (212) 849-7000

Interim Counsel for the Consumer Class

1 By: /s/ Yavar Bathaee
2 **BATHAEE DUNNE LLP**
3 Yavar Bathaee (Bar No. 282388)
yavar@bathaeedunne.com
4 Andrew C. Wolinsky (*pro hac vice*)
awolinsky@bathaeedunne.com
445 Park Avenue, 9th Floor
New York, NY 10022
5 Telephone: (332) 322-8835
6 Brian J. Dunne (Bar No. 275689)
bdunne@bathaeedunne.com
7 Edward M. Grauman (*pro hac vice*)
egrauman@bathaeedunne.com
8 901 South MoPac Expressway
Barton Oaks Plaza I, Suite 300
9 Austin, TX 78746
Telephone: (512) 575-8848
10 **AHDOOT & WOLFSON, PC**
11 Tina Wolfson (Bar No. 174806)
twolfson@ahdootwolfson.com
12 Robert Ahdoot (Bar No. 172098)
rahdoot@ahdootwolfson.com
13 Theodore W. Maya (Bar No. 223242)
tmaya@ahdootwolfson.com
14 Henry Kelston (*pro hac vice*)
hkelston@ahdootwolfson.com
15 2600 West Olive Avenue, Suite 500
Burbank, CA 91505
16 Telephone: (310) 474-9111

1 By: /s/ Amanda F. Lawrence
2 **SCOTT+SCOTT ATTORNEYS AT LAW LLP**
3 Amanda F. Lawrence (*pro hac vice*)
alawrence@scott-scott.com
4 Patrick J. McGahan (*pro hac vice*)
pmcgahan@scott-scott.com
5 Michael P. Srodoski (*pro hac vice*)
msrodoski@scott-scott.com
156 South Main Street, P.O. Box 192
Colchester, CT 06415
Telephone: (860) 537-5537
6 Patrick J. Rodriguez (*pro hac vice*)
prodriquez@scott-scott.com
7 230 Park Avenue, 17th Floor
New York, NY 10169
Telephone: (212) 223-6444
8 Christopher M. Burke (Bar No. 214799)
cburke@scott-scott.com
9 David H. Goldberger (Bar No. 225869)
dgoldberger@scott-scott.com
10 Hal D. Cunningham (Bar No. 243048)
hcunningham@scott-scott.com
11 Daniel J. Brockwell (Bar No. 335983)
dbrockwell@scott-scott.com
12 Yifan (Kate) Lv (Bar No. 302704)
kly@scott-scott.com
13 600 W. Broadway, Suite 3300
San Diego, CA 92101
14 Telephone: (619) 233-4565
15 **LEVIN SEDRAN & BERMAN LLP**
16 Keith J. Verrier (*pro hac vice*)
kverrier@lfsblaw.com
17 Austin B. Cohen (*pro hac vice*)
acohen@lfsblaw.com
18 510 Walnut Street, Suite 500
Philadelphia, PA 19106
19 Telephone: (215) 592-1500
20
21 *Interim Counsel for the Advertiser Class*
22
23
24
25
26
27
28

1 By: /s/ Sonal N. Mehta

2 **WILMER CUTLER PICKERING HALE
AND DORR LLP**

3 Sonal N. Mehta (SBN: 222086)
2600 El Camino Real, Suite 400
Palo Alto, California 94306
Telephone: (650) 858-6000
Facsimile: (650) 858-6100

4 Email: Sonal.Mehta@wilmerhale.com

5 David Z. Gringer (*pro hac vice*)

6 7 World Trade Center
7 250 Greenwich Street
8 New York, New York 10007
Telephone: (212) 230-8800
9 Facsimile: (212) 230-8888
Email: David.Gringer@wilmerhale.com

10 Ari Holtzblatt (*pro hac vice*)

11 Molly M. Jennings (*pro hac vice*)
12 1875 Pennsylvania Avenue NW
Washington, DC 20006
Telephone: (202) 663-6000
Facsimile: (202) 663-6363
Email: Ari.Holtzblatt@wilmerhale.com
Email: Molly.Jennings@wilmerhale.com

13 *Attorneys for Defendant Meta Platforms, Inc.*

27
28

ATTESTATION OF STEPHEN A. SWEDLOW

2 This document is being filed through the Electronic Case Filing (ECF) system by attorney
3 Stephen A. Swedlow. By his signature, Mr. Swedlow attests that he has obtained concurrence in
4 the filing of this document from each of the attorneys identified on the caption page and in the above
5 signature block.

Dated: November 4, 2022

By /s/ Stephen A. Swedlow

Stephen A. Swedlow

CERTIFICATE OF SERVICE

11 I hereby certify that on this 4th day of November 2022, I electronically transmitted the
12 foregoing document to the Clerk's Office using the CM/ECF System, causing the document to be
13 electronically served on all attorneys of record.

By /s/ Stephen A. Swedlow

Stephen A. Swedlow